

3/5/13

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JAN 28 2013

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

(1) WILLIE WALTON,

Plaintiff,

vs.

(1) LIBERTY MUTUAL INSURANCE  
COMPANY,

Defendant.

Case No.

**13 CV**

**56**

**JED-TW**

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Liberty Mutual Insurance Company ("Liberty") hereby removes the above-captioned action from the District Court of Tulsa County, State of Oklahoma, to the United States District Court for the Northern District of Oklahoma. In support of this removal, Liberty states as follows:

1. On or about December 20, 2012, Plaintiff commenced an action in the District Court of Tulsa County, State of Oklahoma, entitled *Willie Walton v. Liberty Mutual Insurance Company*, as Case No. CJ-2012-06545 (the "State Court Action"). A true copy of all process, pleadings, and orders in the State Court Action are attached hereto as Exhibit 1.

2. Liberty was first served with the summons and a copy of the Petition in the State Court Action on or about January 7, 2013. A copy of the summons is included in Exhibit 1, attached hereto. This Notice of Removal is timely filed under the provisions of section 1446.

3. The Northern District of Oklahoma includes the state judicial district in which Plaintiff filed his Petition.

4. This is a civil action over which this Court has original jurisdiction based on diversity of citizenship and amount in controversy pursuant to 28 U.S.C § 1332, and which may be removed to this Court pursuant to 28 U.S.C. § 1441. At the time of filing this action and at the present time, Plaintiff was and is a resident and citizen of the State of Oklahoma. Liberty is a Massachusetts company with its principal place of business in Boston, Massachusetts, and is, therefore, a citizen of the State of Massachusetts under 28 U.S.C. §1332(c)(1). Liberty is not a citizen of Oklahoma.

5. The Petition asserts a cause of action for breach of an insurance contract and breach of good faith and fair dealing in handling a claim on an insurance policy. (*See* Petition, at ¶ 3, and Prayer for Relief). The amount in controversy exceeds \$75,000, exclusive of interest and costs. (*See* Petition, ¶ 3, and Prayer for Relief).

6. Contemporaneous with Liberty's filing of this Notice, Liberty will serve written notice to Plaintiff's counsel of the filing, as required by 28 U.S.C. §1446(d).

7. Liberty shall likewise file a true and correct copy of its Notice of Removal

with the Clerk of the District Court in and for Tulsa County, State of Oklahoma, as required by 28 U.S.C. §1446(d).

**CONCLUSION**

Defendant Liberty Mutual Insurance Company respectfully requests that the State Court Action be removed from the District Court for Tulsa County, Oklahoma, to the United States District Court for the Northern District of Oklahoma, and proceed as an action properly removed thereto.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. W. O'Connor', is written over a horizontal line.

**William W. O'Connor**, OBA No. 13200

**Jerrick L. Irby**, OBA No. 30876

**Lindy H. Collins**, OBA No. 30579

**NEWTON, O'CONNOR, TURNER & KETCHUM, PC**

2700 Bank of America Center

15 West Sixth Street

Tulsa, Oklahoma 74119-5423

(918) 587-0101

(918) 587-0102 (facsimile)

boconnor@newtonoconnor.com

jirby@newtonoconnor.com

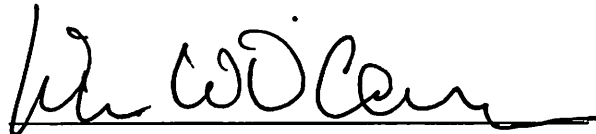
lcollins@newtonoconnor.com

**ATTORNEYS FOR DEFENDANT,  
LIBERTY MUTUAL INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing *Notice of Removal* was sent via United States Mail this 26 day of January, 2013 to the following:

Jessika M. Tate  
510 N. Sheridan Rd., Ste. A  
Tulsa, OK 74115

A handwritten signature in black ink, appearing to read "W. W. O'Connor", written over a horizontal line.

William W. O'Connor



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## IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, OKLAHOMA

WILLIE WALTON,  
Plaintiff,v.  
LIBERTY MUTUAL INSURANCE COMPANY,  
Defendant.

No. CJ-2012-6545

(Civil relief more than \$10,000:  
BAD FAITH INSURER LIABILITY)

Filed: 12/20/2012

Judge: Sellers, Jefferson D.

## Parties

LIBERTY MUTUAL INSURANCE COMPANY, Defendant  
WALTON, WILLIE, Plaintiff

## Attorneys

## Attorney

Tate, Jessika Michelle(Bar # 22013)  
TATE LAW OFFICE  
510 N SHERIDAN RD., STE A  
TULSA, OK 74115

## Represented Parties

WALTON, WILLIE

## Events

Event	Party	Docket	Reporter
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## Issues

For cases filed before 1/1/2000, ancillary issues may not appear except in the docket.

## Issue # 1.

Issue: BAD FAITH INSURER LIABILITY  
(INSURE)

Filed by: WALTON, WILLIE

Filed Date: 12/20/2012

Party Name:Defendant: LIBERTY MUTUAL INSURANCE  
COMPANYDisposition Information:

Pending.

EXHIBIT

1

## Docket

Date	Code	Count	Party	Serial #	Entry Date		
12-20-2012	TEXT	1		83950419	Dec 20 2012 9:59:16:800AM	-	\$ 0.00
CIVIL RELIEF MORE THAN \$10,000 INITIAL FILING.							
12-20-2012	INSURE	-		83950421	Dec 20 2012 9:59:16:870AM	Realized	\$ 0.00
BAD FAITH INSURER LIABILITY							
12-20-2012	DMFE	-		83950422	Dec 20 2012 9:59:16:890AM	Realized	\$ 2.00
DISPUTE MEDIATION FEE(\$ 2.00)							
12-20-2012	PFE1	-		83950423	Dec 20 2012 10:05:19:470AM	Realized	\$ 163.00
PETITION(\$ 163.00)							

 Document Available (#1020363799)

12-20-2012	PFE7	-	83950424	Dec 20 2012 9:59:16:890AM	Realized	\$ 6.00
LAW LIBRARY FEE(\$ 6.00)						
12-20-2012	OCISR	-	83950425	Dec 20 2012 9:59:16:890AM	Realized	\$ 25.00
OKLAHOMA COURT INFORMATION SYSTEM REVOLVING FUND(\$ 25.00)						
12-20-2012	CCADMIN02	-	83950426	Dec 20 2012 9:59:16:890AM	Realized	\$ 0.20
COURT CLERK ADMINISTRATIVE FEE ON \$2 COLLECTIONS(\$ 0.20)						
12-20-2012	OCJC	-	83950427	Dec 20 2012 9:59:16:890AM	Realized	\$ 2.00
OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND(\$ 2.00)						
12-20-2012	OCASA	-	83950428	Dec 20 2012 9:59:16:890AM	Realized	\$ 5.00
OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES(\$ 5.00)						
12-20-2012	CCADMIN04	-	83950429	Dec 20 2012 9:59:16:890AM	Realized	\$ 0.50
COURT CLERK ADMINISTRATIVE FEE ON COLLECTIONS(\$ 0.50)						
12-20-2012	LTF	-	83950430	Dec 20 2012 9:59:17:000AM	Realized	\$ 10.00
LENGTHY TRIAL FUND(\$ 10.00)						
12-20-2012	SMF	-	83950431	Dec 20 2012 9:59:17:050AM	Realized	\$ 5.00
SUMMONS FEE (CLERKS FEE)(\$ 5.00)						
12-20-2012	SMIMA	-	83950432	Dec 20 2012 9:59:17:110AM	Realized	\$ 0.00
SUMMONS ISSUED - MAILED BY ATTORNEY						
12-20-2012	TEXT	-	83950420	Dec 20 2012 9:59:16:830AM	-	\$ 0.00
OCIS HAS AUTOMATICALLY ASSIGNED JUDGE SELLERS, JEFFERSON D. TO THIS CASE.						
12-20-2012	ACCOUNT	-	83950446	Dec 20 2012 9:59:55:410AM	-	\$ 0.00
RECEIPT # 2012-2500413 ON 12/20/2012. PAYOR:LAW OFFICES OF JESSIKA M TATE PLLC TOTAL AMOUNT PAID: \$218.70. LINE ITEMS: CJ-2012-6545: \$168.00 ON AC01 CLERK FEES. CJ-2012-6545: \$6.00 ON AC23 LAW LIBRARY FEE. CJ-2012-6545: \$0.70 ON AC31 COURT CLERK REVOLVING FUND. CJ-2012-6545: \$5.00 ON AC58 OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES. CJ-2012-6545: \$2.00 ON AC59 OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND. CJ-2012-6545: \$2.00 ON AC64 DISPUTE MEDIATION FEES. CJ-2012-6545: \$25.00 ON AC79 OCIS REVOLVING FUND. CJ-2012-6545: \$10.00 ON AC81 LENGTHY TRIAL FUND.						

Report Generated by The Oklahoma Court Information System at January 28, 2013 14:15 PM

End of Transmission.

IN THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA

DISTRICT COURT  
**FILED**

DEC 20 2012

WILLIE WALTON,

Plaintiff,

vs.

LIBERTY MUTUAL INSURANCE  
COMPANY,

Defendant.

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLAHOMA  
**CJ-3012-06543**  
Case No. CJ-2012-  
Attorneys Lien Claimed  
JEFFERSON D. SELLERS

**PETITION**

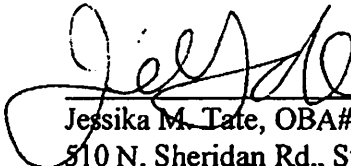
Plaintiff, for cause of action against Defendant, states:

(1) While Defendant, Liberty Mutual Insurance Company had in force its policy insuring Plaintiff for Uninsured/Underinsured Motorist Coverage, Plaintiff suffered serious injuries from a car accident on July 24, 2012.

(2) The tort-feasor at fault in causing this wreck had inadequate liability insurance limits to pay the damages incurred as a result of the injuries Plaintiff suffered.

(3) Liberty Mutual Insurance Company has in bad faith refused to pay its policy limit.

Wherefore, Plaintiff prays judgment against Defendant in the amount of \$25,000.00 on the contract claim, an amount in excess of the amount required for diversity jurisdiction pursuant to Section 1332 of Title 28 of the United States Code on the tort claim, costs, and all other relief deemed appropriate by the court.

  
\_\_\_\_\_  
Jessica M. Tate, OBA# 22013  
510 N. Sheridan Rd., Ste. A  
Tulsa, OK 74115  
918-805-3955  
918-430-3516 Fax  
Attorney for Plaintiff

SUMMONS

IN THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA, 500 SOUTH DENVER, TULSA, OKLAHOMA 74103

Willie Walton

Case No. 2012-06545

Plaintiff(s)

Attorney(s) for Plaintiff(s)

Name

Jessika Pak

Address

510 N. Sheridan Rd. Suite A

Tulsa, OK 74115

vs.

Liberty Mutual Insurance

Defendant(s)

Telephone

(918) 508-8226

To the above-named Defendant(s)

Appointed to serve. PSL # \_\_\_\_\_

Authorized by \_\_\_\_\_

You have been sued by the above named plaintiff(s), and you are directed to file a written answer to the attached petition and order in the court at the above address within twenty (20) days after service of this summons upon you exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the plaintiff. Unless you answer the petition within the time stated judgment will be rendered against you with costs of the action.

Issued this 20 day of 12, 2012

By

Sally Howe Smith, Court Clerk

Deputy Court Clerk

(Seal)

This summons and order was served on \_\_\_\_\_

(date of service)

Via Certified Mail

(Signature of person serving summons)

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THIS SUMMONS.

Return ORIGINAL for filing.